

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 FERNANDO HERNANDEZ, KENNETH CHOW,
5 BRYANT WHITE, DAVID WILLIAMS, MARQUIS ACKLIN,
6 CECILIA JACKSON, TERESA JACKSON,
7 MICHAEL LATTIMORE, and JUANY GUZMAN, Each
8 Individually, And On Behalf Of All Other
9 Persons Similarly Situated,

10 Plaintiffs,

11 -against- Index No:
12 12 CV 4339 (ALC)(JLC)

13

14 THE FRESH DIET, INC., LATE NIGHT EXPRESS
15 COURIER SERVICES, INC. (FL), FRESH DIET EXPRESS
16 CORP. (NY), THE FRESH DIET - NY INC. (NY),
17 FRESH DIET GRAB & GO, INC. (FL) a/k/a
18 YS CATERING HOLDINGS, INC. (FL) d/b/a
19 YS CATERING, INC. (FL), FRESH DIET EXPRESS
20 CORP. (FL), SYED HUSSAIN, Individually,
21 JUDAH SCHLOSS, Individually, and ZAIMI DUCHMAN,
22 Individually,

23 Defendants.

24 -----x

25 EXAMINATION BEFORE TRIAL of a Non-Party
Witness, JUAN CORREA, taken by the Defendant,
pursuant to Notice, held at the offices of
Kaufman, Dolowich, Voluck & Gonzo LLP, 100
William Street, Suite 215, New York, New York
10038, on September 20, 2013, at 2:26 p.m.,
before a Notary Public of the State of New
York.

26 AMERICAN STENOGRAPHIC, LLC
27 8900 Sutphin Boulevard, Suite 305
28 Jamaica, N.Y. 11435
29 Tel-718-291-6600
30 Fax-718-291-6603

[Page 2]

1
2 APPEARANCES:
3 THE HARMAN FIRM, PC
4 Attorney for Plaintiffs
5 200 West 57th Street, Suite 900
6 New York, New York 10019
7
8 BY: PETER J. ANDREWS, ESQ.
9
10 KAUFMAN, DOLOWICH, VOLUCK & GONZO LLP
11 Attorneys for Defendants
12 135 Crossways Park Dr., Suite 201
13 Woodbury, New York 11797
14
15 BY: YALE POLLACK, ESQ.
16
17 FILE #: 055611-0002
18
19 ALSO PRESENT:
20
21 STEVEN MALDONADO, Spanish Interpreter,
22 Languages R Us
23 FERNANDO HERNANDEZ, Plaintiff
24
25

[Page 4]

1
2 STEVEN MALDONADO, called as the
3 interpreter in this matter, was duly sworn by a
4 Notary Public of the State of New York to
5 accurately and faithfully translate the
6 questions propounded to the witness from
7 English into Spanish and the answers given by
8 the witness from Spanish into English.
9 -oOo-
10 JUAN CORREA, the witness herein,
11 having been first duly sworn by a Notary Public
12 of the State of New York, was examined and
13 testified through the interpreter as follows:
14 EXAMINATION BY
15 MR. POLLACK:
16 Q. State your name for the record, please.
17 A. Juan Correa.
18 Q. State your address for the record,
19 please.
20 A. 231 Troutman Street, Apartment 3A,
21 Brooklyn, New York 11237.
22 Q. Good afternoon, Mr. Correa.
23 A. Good afternoon.
24 Q. My name is Yale Pollack. I represent
25 the defendants in this action.

[Page 3]

1
2 STIPULATIONS
3 IT IS HEREBY STIPULATED AND AGREED by
4 and between the attorneys for the respective
5 parties herein, that filing, sealing and
6 certification be and the same are hereby
7 waived.
8 IT IS FURTHER STIPULATED AND AGREED
9 that all objections, except as to the form of
10 the question shall be reserved to the time of
11 the trial.
12 IT IS FURTHER STIPULATED AND AGREED
13 that the within deposition may be signed and
14 sworn to before any officer authorized to
15 administer an oath, with the same force and
16 effect as if signed and sworn to before the
17 Court.
18
19
20
21
22
23
24
25

[Page 5]

1 J. Correa
2 A. Nice to meet you (English).
3 Q. Today I'm going to be asking you a
4 series of questions concerning your claims in
5 this action.
6 If you don't understand any of the
7 questions that I ask, please let me know, and I
8 will rephrase the question. Please let me
9 finish my question before answering. The
10 reporter can't take us both down while we're
11 both talking.
12 A. Okay.
13 Q. If you need to take a break, please let
14 me know.
15 A. Okay.
16 Q. If there's a question pending at that
17 time, please answer the question before
18 requesting the break.
19 A. Okay.
20 Q. Do you understand these instructions?
21 A. Yes.
22 Q. Are you under any medications today?
23 A. No.
24 Q. Are you under the influence of any drugs
25 or alcohol today?

[2] (Pages 2 to 5)

[Page 6]

1 J. Correa
 2 A. No.
 3 Q. Is there anything else that may impair
 4 your ability to truthfully respond to the
 5 questions I'm going to ask today?
 6 A. No.
 7 Q. Are you currently employed?
 8 A. No.
 9 Q. Where was the last place that you
 10 worked?
 11 A. Fresh Diet. At Fresh Diet. Fresh Diet.
 12 Q. Was it Fresh Diet or Late Night?
 13 A. Fresh Diet.
 14 Q. Can you describe your educational
 15 background?
 16 A. Yes. I am automotive technician
 17 professionally for auto diesel.
 18 Q. You said auto diesel?
 19 A. Automotive and gasoline and diesel.
 20 Q. Where did you get your training?
 21 A. Dominican Republic.
 22 Q. Do you have a degree?
 23 A. I graduated as a professional
 24 technician. I finished the studies.
 25 Q. When?

[Page 7]

1 J. Correa
 2 A. In 2003.
 3 Q. Are you a United states citizen?
 4 A. No.
 5 Q. Do you have a work visa?
 6 A. Yes. I have a resident visa. I am a
 7 resident. How do you say? Permanent,
 8 permanent resident.
 9 Q. Permanent resident visa?
 10 A. Ten years. Ten-year visa.
 11 Q. Are you married?
 12 A. Yes.
 13 Q. What's your wife's name?
 14 A. First name is Katuska, K-A-T-I-U-S-K-A,
 15 last name Cabral, C-A-B-R-A-L.
 16 Q. How long have you been married?
 17 A. Ten years.
 18 Q. Were you married in the Dominican
 19 Republic?
 20 A. Yes.
 21 Q. Do you have any children?
 22 A. One.
 23 Q. Boy or a girl?
 24 A. Boy.
 25 Q. What's his name?

[Page 8]

1 J. Correa
 2 MR. ANDREWS: Objection.
 3 A. My same name.
 4 Q. Junior?
 5 A. Yes.
 6 Q. How old is he?
 7 A. He was born February 5, 2012.
 8 Q. What's your date of birth?
 9 A. November 4, '83.
 10 Q. What's your wife's date of birth?
 11 A. April 11, '86.
 12 MR. POLLACK: Let's mark these
 13 as 13 and 14.
 14 (Whereupon, Complaint was marked
 15 as Defendant's Exhibit 13, for
 16 identification, as of this date.)
 17 (Whereupon, EBT notice was
 18 marked as Defendant's Exhibit 14, for
 19 identification, as of this date.)
 20 Q. I'm now showing you a document that's
 21 been marked for identification as Defendant's
 22 Exhibit 13 (handing).
 23 I'm going to ask, have you seen that
 24 document before today?
 25 A. Yes.

[Page 9]

1 J. Correa
 2 Q. When did you first see that document?
 3 MR. ANDREWS: Objection.
 4 I just want to remind the
 5 witness that the attorney client
 6 privilege applies to any communications
 7 he's had with attorneys or in the
 8 presence of attorneys, and if any of the
 9 questions asked require you to disclose
 10 communications you had in the presence
 11 of attorneys, you are not to answer
 12 because the attorney client privilege
 13 applies.
 14 THE WITNESS: Can you -- can you
 15 repeat again?
 16 MR. POLLACK: I don't think that
 17 that's necessary.
 18 MR. ANDREWS: Are you asking me
 19 to repeat what I said, or are you asking
 20 Mr. Pollack to repeat what he said? Oh,
 21 you want me to repeat what I said.
 22 Okay.
 23 You are protected by the
 24 attorney client privilege. If
 25 Mr. Pollack asks you any questions that

[3] (Pages 6 to 9)

[Page 10]

1 J. Correa
 2 require you to answer by disclosing
 3 conversations you have had with your
 4 attorneys or in the presence of your
 5 attorneys, you should not answer those
 6 questions because the attorney client
 7 privilege applies, and this applies to
 8 any questions in this deposition.
 9 However, if Mr. Pollack asks you
 10 questions about events that took place
 11 that did not involve communications with
 12 your lawyers, then you should try to
 13 answer to the best of your ability.
 14 THE WITNESS: Okay.
 15 Q. When did you first see that document?
 16 A. The exact date, I don't remember.
 17 Q. Approximately?
 18 A. Approximately since Fresh Diet received
 19 this.
 20 Q. Do you know what year that was?
 21 A. 2012.
 22 Q. You did not receive it from your
 23 attorney?
 24 A. I don't remember because I had to send
 25 it to the address at the house, and I changed

[Page 11]

1 J. Correa
 2 my address, my home, two times.
 3 Q. Were you working at Fresh Diet when you
 4 first saw that?
 5 A. Yes.
 6 Q. Are you still working at The Fresh Diet?
 7 MR. ANDREWS: Objection, asked
 8 and answered.
 9 A. If I am working -- if I'm still working
 10 Fresh Diet (English)?
 11 Q. Yes.
 12 A. No.
 13 Q. Now I'm going to show you what's been
 14 marked as Defendant's Exhibit 14 (handing).
 15 Have you seen that document before
 16 today?
 17 MR. ANDREWS: I'd like to just
 18 advise --
 19 MR. POLLACK: There's a question
 20 pending.
 21 MR. ANDREWS: Yes. I just want
 22 to make sure the witness understands
 23 that he should answer to his
 24 recollection, yes, no, I don't remember.
 25 A. I don't remember.

[Page 12]

1 J. Correa
 2 (Whereupon, Collective notice
 3 was marked as Defendant's Exhibit 15,
 4 for identification, as of this date.)
 5 Q. I'm now showing you what's been marked
 6 for identification as Defendant's Exhibit 15
 7 (handing).
 8 Have you seen that document before
 9 today?
 10 A. I don't remember.
 11 (Whereupon, Consent by
 12 Mr. Correa was marked as Defendant's
 13 Exhibit 16, for identification, as of
 14 this date.)
 15 Q. I'm now showing you what's been marked
 16 for identification as Defendant's Exhibit 16
 17 (handing).
 18 A. Okay.
 19 Q. I'm going to ask if you've ever seen
 20 that document before today.
 21 A. Yes.
 22 Q. Is that your name on the document?
 23 A. I filled it out.
 24 Q. Do you remember when you filled it out?
 25 A. Not the exact date.

[Page 13]

1 J. Correa
 2 Q. Do you know what that document is?
 3 A. Yes.
 4 Q. What is your understanding of that
 5 document?
 6 A. With this document, we are claiming our
 7 rights, our rights that have been violated by
 8 the Fresh Diet company.
 9 Q. What rights do you believe have been
 10 violated by the Fresh Diet company?
 11 MR. ANDREWS: Objection.
 12 Q. You can answer.
 13 A. They violated -- the company has us like
 14 contractors and violating the extra hours.
 15 The -- our taxes, paying us like 1099. Had us
 16 working with our own vehicle so they wouldn't
 17 have any responsibility over their work. We
 18 had to pay everything including our personal
 19 medical insurance, which at the end, left
 20 nothing else in our salaries to sustain
 21 ourselves.
 22 Q. What did you do when you received the
 23 document marked as Defendant's Exhibit 16?
 24 A. I met with Fernando, Juany Guzman, and
 25 we gave it in to the attorney.

[4] (Pages 10 to 13)

[Page 14]

1 J. Correa
 2 Q. What did you discuss with Fernando and
 3 Juany Guzman when you met with them?
 4 A. I don't remember.
 5 Q. Are you aware of the company Late Night
 6 Express?
 7 A. I became aware that -- of that company
 8 when I received my first check and it did not
 9 say Fresh Diet, but all my documents and
 10 Syed Hussain offered me work for Fresh Diet.
 11 Q. What documents are you referring to?
 12 A. They only asked of me for my license on
 13 record, which was very clean, and my residency
 14 card and Social Security to be a driver of
 15 Fresh Diet.
 16 Q. Who asked you for those documents?
 17 A. Syed Hussain.
 18 Q. You gave those documents to him?
 19 A. Yes.
 20 MR. POLLACK: I'm going to
 21 request production of those documents.
 22 Q. What on those documents indicated The
 23 Fresh Diet?
 24 MR. ANDREWS: Objection.
 25 A. When I was given the job, they gave me

[Page 15]

1 J. Correa
 2 the card, driver card, that states that I work
 3 for Fresh Diet (indicating).
 4 MR. POLLACK: Plaintiff's
 5 indicating a card right now, and I'd
 6 like to make a copy of that just to mark
 7 it as evidence.
 8 MR. ANDREWS: During the break
 9 we can have it photocopied.
 10 Just leave it there. We'll have
 11 it photocopied.
 12 THE WITNESS: Okay.
 13 MR. POLLACK: I want to take the
 14 break now to have that into evidence.
 15 MR. ANDREWS: That's fine.
 16 (Whereupon, a recess was taken
 17 at this time.)
 18 (Whereupon, Mr. Correa's driver
 19 identification card was marked as
 20 Defendant's Exhibit 17, for
 21 identification, as of this date.)
 22 Q. I'm now showing you what's been marked
 23 for identification as Defendant's 17 (handing).
 24 Is that a copy of the card that you just
 25 showed to me?

[Page 16]

1 J. Correa
 2 A. Yes. It looks a little burly, but
 3 that's it.
 4 Q. Understood.
 5 A. They also gave me, despite this badge,
 6 magnetic things that I had to put on my vehicle
 7 that says "Fresh Diet" on both sides, both
 8 doors, and the front of the vehicle, Fresh
 9 Diet.
 10 Q. Those were magnetic decals you said?
 11 A. Yes (Spanish). Something like that
 12 (indicating)(English). And you would put it
 13 against the door. It would stick (Spanish).
 14 MR. ANDREWS: Just as far as the
 15 deposition, the witness has to
 16 understand that he has to answer audibly
 17 because the court reporter can only take
 18 down what you say. She cannot take down
 19 gestures.
 20 A. Like this magnetic decal, three of them
 21 that were given to us so that we would put it
 22 in the front and on both sides.
 23 Q. They would come off easily?
 24 A. I stopped using them because they would
 25 fall off because of the snow.

[Page 17]

1 J. Correa
 2 Q. Before you received the decals or the
 3 card marked as Defendant's 17, did you receive
 4 anything else saying that you were going to be
 5 working for Fresh Diet?
 6 A. Yes.
 7 Q. What?
 8 A. All the bags of food had the Fresh Diet
 9 logo just like the manifestations.
 10 Q. You said you received your paycheck from
 11 Late Night, right?
 12 MR. ANDREWS: Objection.
 13 A. Yes.
 14 Q. Did you ever enter into a contract with
 15 Late Night?
 16 MR. ANDREWS: Objection.
 17 A. I don't remember ever filling out a
 18 contract with Late Night.
 19 (Whereupon, Late Night Express
 20 Courier Services documents were marked
 21 as Defendant's Exhibit 18, for
 22 identification, as of this date.)
 23 Q. I'm now showing you what's been marked
 24 for identification as Defendant's Exhibit 18
 25 (handing).

[5] (Pages 14 to 17)

[Page 18]

1 J. Correa
 2 I'm going to ask, have you ever seen a
 3 document like that before today?
 4 A. I don't remember.
 5 Q. You say that you performed work for
 6 The Fresh Diet, correct?
 7 A. Yes.
 8 Q. Do you remember when you started
 9 performing work for The Fresh Diet?
 10 A. Yes.
 11 Q. When?
 12 A. The 4th of January of 2011.
 13 Q. How did you learn of the position?
 14 A. Through a friend.
 15 Q. What was the name of the friend?
 16 A. Jojairo. Jojairo. I don't know how his
 17 name is written.
 18 THE INTERPRETER: Phonetically,
 19 J-O-J-A-I-R-O.
 20 Q. What did your friend tell you?
 21 A. That Fresh Diet was looking for drivers.
 22 Q. What did you do when you learned of that
 23 information?
 24 A. I immediately went with him to the
 25 company.

[Page 19]

1 J. Correa
 2 Q. Do you know if he ever worked for
 3 The Fresh Diet?
 4 A. Yes, he was working for Fresh Diet.
 5 Q. Where did you go?
 6 A. I went to -- I was at Seigel, on Seigel
 7 Street. Let me see if I remember the number
 8 (Spanish). I don't remember the number, but it
 9 was on Seigel and Bushwick (English). The old
 10 company (Spanish).
 11 Q. What did you do when you arrived there?
 12 A. I went to the office. I told Syed
 13 that -- that I was in the company because of
 14 the add for drivers.
 15 Q. What did Syed say?
 16 A. I need to see your license on record.
 17 It has to be clean for you to be able to work
 18 here. Your residency and your Social Security.
 19 Q. You provided those documents?
 20 A. Yes.
 21 Q. That same night?
 22 A. Not that same night. I had to go to
 23 motor vehicle to go look for them.
 24 Q. Then you returned with them?
 25 A. Yes.

[Page 20]

1 J. Correa
 2 Q. Did you fill out any paperwork the first
 3 time you went there?
 4 A. I don't remember.
 5 Q. Do you remember filling out paperwork
 6 when you returned?
 7 A. I had to -- I don't remember.
 8 Q. You started working on January 4, 2011,
 9 correct?
 10 A. Let me check on my cell phone.
 11 Can I check my calendar on my cell phone
 12 to be sure?
 13 Q. Yes.
 14 A. Thank you.
 15 Yes, 4.
 16 Q. What kind of calendar do you have on
 17 your phone?
 18 A. The calendar that comes with the cell
 19 phone (indicating).
 20 Q. What kind of phone is that?
 21 A. It's an HTC One.
 22 Q. Have you had that same phone since you
 23 started work at Fresh Diet?
 24 A. Every time a new one comes out, I buy
 25 it.

[Page 21]

1 J. Correa
 2 Q. But you had the same calendar?
 3 A. The calendar is the same one in all the
 4 phones.
 5 I'm just checking because I know I
 6 started on a Tuesday, and now it's confirming
 7 that Tuesday was the 4th.
 8 Q. Does the calendar have that that was
 9 your first day of work with The Fresh Diet?
 10 A. The calendar does not say it, but I know
 11 it was because I went on a Monday, and I had to
 12 return Tuesday with the documents.
 13 Q. Did you keep any schedule during the
 14 time you worked with Fresh Diet?
 15 A. They required to give all the documents.
 16 Q. Can you repeat that?
 17 A. Fresh Diet required -- Syed required us
 18 to give all the documents every time we finish
 19 working.
 20 Q. Did that have a schedule?
 21 A. Syed would call us at different hours,
 22 different schedules, that the food was ready or
 23 they needed help. They would call us to do the
 24 job.
 25 Q. Did you ever text with Syed?

[6] (Pages 18 to 21)

[Page 22]

1 J. Correa
 2 A. Yes, Syed would send us texts.
 3 Q. Did you keep those text messages?
 4 A. No, because I've also changed companies,
 5 so it's erased.
 6 Q. When did you change companies?
 7 A. All the time.
 8 Q. When was the last time you changed
 9 companies?
 10 A. Since this telephone came out.
 11 Q. Do you remember, approximately, when
 12 that was?
 13 A. Maybe two months ago.
 14 Q. This year?
 15 A. Uh-huh.
 16 Q. What did you do with your prior phone?
 17 A. I sent it or give it as a gift.
 18 Q. You didn't keep it?
 19 A. No, because they no longer work. Every
 20 time a new one comes out, the software is too
 21 slow, so it's no good for me.
 22 Q. Do you have any text messages with Syed
 23 still in your possession?
 24 A. I don't have anything here.
 25 Q. Did you ever give anything to your

[Page 23]

1 J. Correa
 2 attorney?
 3 A. Something like what?
 4 Q. Like prior text messages from a
 5 different phone.
 6 A. No.
 7 Q. Were you ever asked to keep that
 8 information?
 9 A. I don't remember.
 10 Q. What did you do the first night that you
 11 performed work with Fresh Diet?
 12 A. I went to the kitchen. No. First, I
 13 went to the office. They gave me the list of
 14 stops with addresses of the clients. Then I
 15 went to the kitchen. I had to wait for them to
 16 finish packing the bags, and then I took the
 17 bags, I organized them in the vehicle the way
 18 they were placed on the list, and I left to
 19 make the deliveries.
 20 Q. Was that the same thing that happened
 21 the entire time you worked with Fresh Diet?
 22 A. I wouldn't always get the same thing
 23 because sometimes they would call us earlier
 24 because they needed help with the packing, to
 25 pack up the food, because they would always

[Page 24]

1 J. Correa
 2 call everyone because a lot of the other
 3 coworkers had empty bags, and they needed them.
 4 Q. Where were the bags the first night you
 5 arrived at the facility?
 6 A. Where would they keep the bags?
 7 Q. Yes.
 8 A. They would prepare the bags in a cold
 9 room, and while they would finish packing the
 10 bags, they kept taking them out next to where
 11 the vehicles were at, and then we would have to
 12 organize it ourselves and put them in the
 13 vehicle and -- and when they gave us the order
 14 stating that we could leave, we would go.
 15 Q. You packed the bag into your car?
 16 A. Yes.
 17 MR. ANDREWS: Objection.
 18 Q. The bag had the meal in it when you
 19 arrived?
 20 MR. ANDREWS: Objection.
 21 A. Not always. Sometimes we had to help
 22 pack it up as well.
 23 Q. But other times, the bag was ready with
 24 the meal inside?
 25 MR. ANDREWS: Objection.

[Page 25]

1 J. Correa
 2 A. Yes.
 3 Q. Would you say most of the time that you
 4 didn't have to do the packing?
 5 MR. ANDREWS: Objection.
 6 A. I would say yes.
 7 Q. You used your own car to perform the
 8 deliveries?
 9 A. Yes.
 10 Q. You have your own insurance for the car?
 11 A. Yes.
 12 Q. Who was your insurance with?
 13 A. GEICO.
 14 Q. What kind of car did you have?
 15 A. Honda CRV 2005.
 16 That was my first vehicle. The
 17 transmission got damaged, and I had to buy
 18 another. I bought another one, a Honda CRV
 19 2008 -- '98. I had to sell it because it had
 20 way too many miles on it. I always bought a
 21 Honda CRV because I would have to go to the
 22 mountains, and I needed a four-by-four vehicle.
 23 Then I had to sell that one also because
 24 it had a lot of miles, and I got a Honda CRV
 25 2008, but I was also giving it a lot of miles,

[7] (Pages 22 to 25)

[Page 26]

1 J. Correa
 2 and I had to then buy a 2003, but I had to sell
 3 it immediately because I couldn't anymore with
 4 the insurances.
 5 Q. Which of the cars did you have when you
 6 started in 2011?
 7 A. The 2005.
 8 Q. 2005 Honda CRV?
 9 A. Yes.
 10 Q. How long had you had that car before you
 11 started in January of 2011?
 12 A. I don't remember.
 13 Q. More than a year?
 14 A. I don't think so.
 15 Q. You didn't buy the car in order to
 16 perform work for The Fresh Diet, correct?
 17 MR. ANDREWS: Objection.
 18 Objection.
 19 A. I had to buy the vehicles to be able to
 20 work at Fresh Diet.
 21 Q. You didn't know you were going to work
 22 with The Fresh Diet when you bought the 2005
 23 Honda CRV, correct?
 24 A. Yes. That one, yes. That's why I
 25 bought the '98.

[Page 27]

1 J. Correa
 2 Q. You owned the car when you started work
 3 in 2011, January 2011?
 4 A. That was one of the requirements, having
 5 a car.
 6 Q. Did you own a car before that without --
 7 A. A few months before.
 8 Q. You didn't know you were going to be
 9 working with The Fresh Diet a few months
 10 before, correct?
 11 MR. ANDREWS: Objection.
 12 A. No.
 13 Q. What did you do before you worked with
 14 The Fresh Diet?
 15 A. Porter (Spanish). Cleaning the garbage
 16 for our building. Shoveling snow, cleaning
 17 the garbage, cleaning the building (English).
 18 Q. Where was that?
 19 A. Brooklyn.
 20 Washington -- 475 Washington Avenue,
 21 that's the name of the company.
 22 Q. Where was the building located?
 23 A. Exactly on 475 Washington Avenue.
 24 Q. Is that a residential building?
 25 A. Yes.

[Page 28]

1 J. Correa
 2 Q. People live there?
 3 A. Yes.
 4 I feel like that question, the majority,
 5 don't have to do the with the case.
 6 MR. ANDREWS: It's okay. Just
 7 listen to the questions.
 8 Q. When you started working with
 9 The Fresh Diet, how did you know where you were
 10 going to be delivering meals?
 11 A. How did I know where I had to bring the
 12 meals?
 13 Q. Correct.
 14 A. Syed would give us a list with
 15 addresses.
 16 Q. Was this a route?
 17 A. It wasn't always the same one. I would
 18 do many -- Syed would give me two to three
 19 routes. They were always different.
 20 Q. What was one of the routes that you had?
 21 A. New Jersey/Upstate New York.
 22 Q. Would you go into New Jersey and
 23 New York in the same night?
 24 A. I would start at night at one day, and
 25 then I would finish the morning, the following

[Page 29]

1 J. Correa
 2 morning.
 3 Q. Where in New Jersey would you deliver?
 4 A. Bergen County and Upstate New York and
 5 also Connecticut.
 6 Q. Where in Upstate New York would you
 7 deliver?
 8 A. There were many places, many. I would
 9 do close to fifty, sixty stops. A lot of
 10 places, a lot.
 11 Q. You would perform deliveries in
 12 New Jersey and New York on the same night?
 13 MR. ANDREWS: Objection.
 14 A. On one night -- yeah. I would start at
 15 night, and I had to finish before 5:00 in the
 16 morning the following day.
 17 Q. When would you arrive at the facility?
 18 A. At which facility?
 19 Q. At Seigel Street.
 20 A. At the time that Syed would tell us to
 21 be there. We had to be available all the time.
 22 Q. Starting at what time did you have to be
 23 available?
 24 MR. ANDREWS: Objection.
 25 A. It would vary. Whenever Syed would say.

[8] (Pages 26 to 29)

[Page 30]

1 J. Correa
 2 Q. What was the earliest you would ever
 3 arrive?
 4 A. Like 3:00 in the afternoon.
 5 Q. What was the latest you would ever
 6 arrive?
 7 A. That I would have to arrive? That I
 8 would have to be at the company?
 9 Q. Yes.
 10 A. I had to be there whatever time Syed
 11 told me.
 12 Q. You said the earliest was 3:00 p.m.,
 13 right?
 14 A. Uh-huh.
 15 Q. What would be the latest?
 16 A. I couldn't say.
 17 Q. Do you remember a day in particular that
 18 you showed up at 3:00 p.m.?
 19 A. No. It was way too many days.
 20 Q. You had two routes you said?
 21 MR. ANDREWS: Objection.
 22 A. I -- Syed had me for like personally
 23 doing various routes. All the time I was doing
 24 various routes.
 25 Q. How would you know what route you were

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1 J. Correa
 2 going to do that night?
 3 A. Syed would let me know.
 4 Q. Would he give you a piece of paper?
 5 A. Yes.
 6 Q. It always changed or --
 7 MR. ANDREWS: Objection.
 8 A. Yes.
 9 Q. Was there an order you were required to
 10 deliver the meals?
 11 A. I had to package them so they wouldn't
 12 open. I had to put a box type on the bags, and
 13 whatever mistake we would make, they would
 14 discount \$25.
 15 Q. What mistake are you talking about where
 16 you were discounted \$25?
 17 A. Like if I gave in a bag to a client
 18 without a box type.
 19 Q. What's a box type?
 20 A. Like the thing that the police use.
 21 They put it in the hands of the people because
 22 it's plastic but smaller, like this
 23 (indicating).
 24 Q. What did the box type indicate?
 25 A. That the bag was closed.

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1 J. Correa
 2 Q. Did you get to choose the manner in
 3 which you delivered the meals?
 4 A. What do you mean?
 5 Q. Can you go to New Jersey and then
 6 Upstate if you wanted to?
 7 MR. ANDREWS: Objection.
 8 A. You could do it however you -- but you
 9 had to finish before 5:00 in the morning.
 10 Q. The only requirement that you had was to
 11 deliver the meals in your car by 5:00 a.m. the
 12 next morning?
 13 MR. ANDREWS: Objection.
 14 Objection.
 15 A. No.
 16 We had a list. At the beginning, we
 17 even had the names and the phone numbers of the
 18 person. We had to call the person to ask for
 19 information, and we had to have keys because we
 20 were going late at night and some clients did
 21 not want to be bothered, but they would give us
 22 keys to be able to open the homes and enter and
 23 drop-off the bags where they wanted because
 24 each client had -- each client would state
 25 where and how they wanted their bags to be

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1 J. Correa
 2 dropped off.
 3 Q. Were those instructions on the sheet, on
 4 the route sheet, that you were given?
 5 A. Yes.
 6 Q. Did you ever speak with a customer?
 7 A. Yes, many times.
 8 Q. What would you speak about with a
 9 customer?
 10 A. No, just when -- like first time, since
 11 they were constantly changing and getting new
 12 clients, in the really far areas, sometimes the
 13 GPS don't understand the address and you have
 14 to ask the client how to get there. That's it.
 15 Q. You delivered these meals overnight,
 16 correct?
 17 MR. ANDREWS: Objection.
 18 A. How was that?
 19 Q. You delivered the meals overnight?
 20 MR. ANDREWS: Objection.
 21 A. If you started early because it was way
 22 too many stops, you don't know if you're going
 23 to get to the house early or late.
 24 Q. When were all the meals ready to go out
 25 of the facility at Seigel Street?

[9] (Pages 30 to 33)

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1 J. Correa
 2 MR. ANDREWS: Objection.
 3 A. Sometimes we even had to -- even at
 4 10:00 at night.
 5 Q. Sometimes you'd leave at 10:00 at night
 6 with all the meals?
 7 MR. ANDREWS: Objection.
 8 A. Yes, but we would have to be there
 9 earlier working in the kitchen, working with
 10 the rest of the workers to make sure the job
 11 was done.
 12 Q. What were you required to do in the
 13 kitchen?
 14 A. To help package.
 15 Q. After you left with the meals in your
 16 car, you could deliver them in any order you
 17 wanted, correct?
 18 MR. ANDREWS: Objection.
 19 A. Syed would give us each one, a list with
 20 a number of each in order, in order, and we
 21 would have to put the time down that you
 22 arrived, the time you dropped it off at that
 23 house, and how many empty bags you picked up.
 24 He would give us the order.
 25 If you wanted to do it different from

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1 J. Correa
 2 that, it would be your problem if you got to
 3 the house late.
 4 Q. You didn't check-in after each meal you
 5 delivered?
 6 MR. ANDREWS: Objection.
 7 A. If I had checked in how?
 8 Q. Did you get in touch with the office
 9 after you delivered each meal?
 10 MR. ANDREWS: Objection.
 11 A. No.
 12 Q. After you left --
 13 A. They gave us -- they wanted to implement
 14 that, but it would be way too many workers
 15 calling at the same time to say that they
 16 dropped something off at a stop, so they
 17 eliminated that. You always had to put it down
 18 on a paper.
 19 Q. After you left with the meals, you
 20 weren't in touch with the office until you
 21 returned to the facility at the end of your
 22 route?
 23 MR. ANDREWS: Objection,
 24 mischaracterizes his testimony.
 25 A. Yes. Syed would be constantly calling

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1 J. Correa
 2 us, and he would tell us -- I'm sorry. I have
 3 to pick this up.
 4 MR. ANDREWS: Should we just
 5 take a break while he checks his
 6 message? Is there a question pending?
 7 THE WITNESS: It's okay. I want
 8 to continue (English).
 9 MR. ANDREWS: I'm sorry. We can
 10 continue.
 11 MR. POLLACK: Okay.
 12 A. Syed would call us to give us
 13 information about the route, if something
 14 happened with a client, if a client would
 15 change the place, position, where he wanted the
 16 bag to be dropped off. Or if the client would
 17 cancel the delivery that night, they would let
 18 you know don't do that delivery.
 19 Q. Otherwise, you were free to deliver them
 20 however you wanted?
 21 MR. ANDREWS: Objection.
 22 MR. POLLACK: What's the basis
 23 for the objection?
 24 MR. ANDREWS: Mischaracterizes
 25 his testimony.

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1 J. Correa
 2 MR. POLLACK: I'm asking a
 3 question.
 4 MR. ANDREWS: He's testified to
 5 that previously.
 6 He can answer if he can.
 7 Q. You were free to deliver --
 8 A. No. Everything had to be done the way
 9 Syed said.
 10 Q. Syed would not know if you delivered to
 11 Upstate and then New Jersey instead of New
 12 Jersey then Upstate?
 13 A. He knew everything. He had everything
 14 in the computer, everything.
 15 Q. You didn't check-in overnight telling
 16 him when you made each delivery?
 17 MR. ANDREWS: Objection.
 18 A. Everything was written down. You had to
 19 write everything down on the sheet because all
 20 workers at the same time were not going to be
 21 able to call in, so we had to write down
 22 everything on the sheet. Once we would finish,
 23 we had to give it to Syed.
 24 If it was 5:00 in the morning and there
 25 were still some clients missing, you, one,

[10] (Pages 34 to 37)

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1 J. Correa
 2 would have to call Syed, give him the number of
 3 the client, and explain to him why -- that
 4 night why you did not have enough time to get
 5 to that client by 5:00 in the morning.
 6 MR. ANDREWS: I just want to
 7 remind the witness, as long as there's
 8 no question pending, you can take a
 9 break as long as you want to, as long as
 10 there's no question pending.
 11 Q. Did you receive any training on how to
 12 deliver the meals?
 13 A. No.
 14 Q. Yes or no, did Syed ever tell you to
 15 deliver the meals in a certain order?
 16 A. Yes.
 17 Q. How?
 18 A. The paper would state it. Just like
 19 this is in order, that's how it had to be done
 20 (indicating). Syed would say look, I'm going
 21 to give you the list ready, that is the best
 22 manner for you to do the route.
 23 Q. Did you ever vary from the route on the
 24 list?
 25 A. Only when you had to do more than one

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1 J. Correa
 2 route.
 3 Q. Then you got to choose how you wanted to
 4 deliver it?
 5 MR. ANDREWS: Objection.
 6 A. Syed would show us with the computer the
 7 map for us to see how to start and where to
 8 end.
 9 Q. Did you take any breaks during the
 10 deliveries?
 11 A. No. You couldn't take a break.
 12 Q. Did you ever eat?
 13 A. I would eat while I was driving.
 14 Q. Where would you get the food?
 15 A. I would stop at a 711.
 16 Q. You would stop during the route to get
 17 food?
 18 A. Everyone had to stop to do pee pee.
 19 Q. Did you ever tell Syed that you're
 20 taking a stop to go to the bathroom?
 21 A. He informed us that we could do it.
 22 Q. Did you ever take a break during the
 23 deliveries because you were tired?
 24 A. No.
 25 Q. You were driving straight the whole

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1 J. Correa
 2 entire night?
 3 A. I was getting in problems because I was
 4 drinking too many Monsters and 5-hour ENERGY.
 5 Q. You were always done by 5:00 a.m. with
 6 the deliveries, correct?
 7 MR. ANDREWS: Objection.
 8 A. No, not always.
 9 Q. Generally, you were expected to be done
 10 with your deliveries by 5:00 a.m.?
 11 MR. ANDREWS: Objection.
 12 A. If you had more than one route and you
 13 couldn't finish it, at that time, you would
 14 have to inform him, everything to Syed,
 15 everything that was happening.
 16 Q. What would you do when you were done
 17 delivering the meals?
 18 A. I would go to the company to bring the
 19 empty bags where I would have to go to
 20 prepare the ice and put it in the freezer and
 21 put the empty bags -- hang the empty bags so
 22 that the one who cleans them has the ability to
 23 grab them.
 24 Q. You always returned the bags at the end
 25 of your routes?

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1 J. Correa
 2 A. Always. Always. Always.
 3 Syed told me that I was the best driver
 4 that he had, that I did everything the way he
 5 asked.
 6 Q. Did other drivers not return the bags?
 7 MR. ANDREWS: Objection.
 8 A. Whatever they did not give in, Syed
 9 would tell them if they could do it or not.
 10 Q. Did the facility change locations during
 11 the time you were working with The Fresh Diet?
 12 A. Yes.
 13 Q. When?
 14 A. They changed -- it's all written when
 15 they changed over to 588 Baltic, Baltic street,
 16 11217.
 17 Q. Those were the only two facilities that
 18 you would pickup meals from, correct?
 19 A. Yes.
 20 Q. Seigel Street and Baltic Street?
 21 A. (Witness nods head.)
 22 Q. I need a verbal answer.
 23 A. Yes.
 24 MR. ANDREWS: You can't shake
 25 your head. You have to say yes.

[11] (Pages 38 to 41)

[Page 42]

1 J. Correa
 2 A. Yes. I'm sorry. Yes.
 3 Q. Did the hours change when it was moved
 4 to Baltic?
 5 A. It continues the same. Syed would call
 6 us, let us know. By phone, he would call us
 7 and let us know.
 8 Q. Generally, when did you show up to the
 9 facility to pickup the meals?
 10 MR. ANDREWS: Objection.
 11 A. I can't say an exact time because it
 12 would vary.
 13 Q. Did you always deliver on the same days
 14 of the week?
 15 A. I always worked.
 16 Q. How many days a week?
 17 A. Seven days a week.
 18 Q. Fresh Diet was open seven days a week?
 19 MR. ANDREWS: Objection.
 20 A. It would start Monday, finish Tuesday.
 21 I would start Tuesday, finish Wednesday. I
 22 would start Wednesday, finish Thursday. I
 23 would start Friday, and I would finish
 24 Saturday. I would start Sunday, I would finish
 25 Monday. I was working all seven days, seven

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1 J. Correa
 2 days.
 3 Q. Did you ever deliver on Saturday nights,
 4 from Saturday into Sunday?
 5 A. No, not Saturday at night, but yes,
 6 Saturday in the morning.
 7 Q. Your hours varied every day?
 8 MR. ANDREWS: Objection.
 9 A. It always varied because Syed had me
 10 doing double routes, triple routes.
 11 Q. What's a double route?
 12 A. More than one manifest.
 13 Q. You're supposed to finish a double route
 14 in one night?
 15 A. Supposedly, yes.
 16 He would prepare it with the computer so
 17 I could finish, more or less, 5:00, 6:00, 7:00
 18 in the morning, but I would finish. Sometimes
 19 I would end up way too far, and I would get
 20 back to the company like around 10:00. I would
 21 work a lot of hours, a lot.
 22 Q. Do you understand that this lawsuit
 23 concerns the hours that you worked?
 24 A. Yes.
 25 Q. I need an understanding of how many

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1 J. Correa
 2 hours you claim you worked.
 3 MR. ANDREWS: Objection.
 4 Q. Can you provide that?
 5 A. More than twelve hours every day.
 6 Q. Can you give me an example of when you
 7 would work more than twelve hours?
 8 A. I always had to be like 3:00, 4:00, 5:00
 9 in the afternoon, and I would leave the company
 10 like at 8:00 in the morning, already having
 11 finished with the ice and the bags.
 12 Q. You'd be there between 3:00 and
 13 5:00 p.m. and return by 8:00 a.m.?
 14 MR. ANDREWS: Objection.
 15 A. Sometimes.
 16 Q. Is it fair to say that sometimes you'd
 17 show up later than 5:00 p.m.?
 18 A. Sometimes I would arrive later.
 19 I would finish -- sometimes I would get
 20 later than 8:00 in the morning to the company
 21 because I would end up finishing really far,
 22 and then I would run into the morning traffic,
 23 and if you take two hours -- you could take two
 24 hours in traffic and not arrive at the company.
 25 Q. Sometimes you would arrive at the

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1 J. Correa
 2 facility later than 5:00 p.m., correct?
 3 MR. ANDREWS: Objection.
 4 A. Syed only -- when Syed would tell us at
 5 what time I had to arrive.
 6 Q. Would that ever be after 5:00 p.m.?
 7 A. Yes.
 8 Q. Would that ever be after 6:00 p.m.?
 9 A. Many times, I had to -- I had to be
 10 there either way to help him -- to help the
 11 rest of the workers to speed up the job.
 12 Q. Did you ever arrive after 6:00 p.m.?
 13 A. Yes. Yes.
 14 I would have to communicate to Syed that
 15 I was going to get there a little later.
 16 Sometimes you have to do things, but I would do
 17 it early enough so I wouldn't have to -- so I
 18 wouldn't have to take the day, miss the day.
 19 Q. When during the day would you first
 20 learn when to show up?
 21 A. Syed would send out a message.
 22 Q. What time?
 23 A. It would vary. It would vary.
 24 Q. Before 12:00 p.m.?
 25 MR. ANDREWS: Objection.

[12] (Pages 42 to 45)

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1 J. Correa
2 A. Before 12:00? No.
3 Before 12:00 noon you mean?
4 Q. Correct.
5 A. No.
6 Q. After noon?
7 A. Yes.
8 Q. After 1:00 p.m.?
9 A. Yes.
10 Q. After 2:00 p.m.?
11 A. Yes.
12 Q. After 3:00 p.m.?
13 A. Yes.
14 Q. How far did you live from the facility
15 at Seigel Street?
16 A. I lived like two miles away. I lived.
17 Q. How long would it take you to drive from
18 your home to Seigel Street?
19 A. Not long.
20 Q. Ten minutes?
21 A. Something like that.
22 Q. How far did you live from Baltic Street?
23 A. Like half an hour or more depending on
24 the traffic.
25 Q. How long after you received a call from

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1 J. Correa
2 Syed would you have to leave to go to the
3 facility?
4 A. I would have to be ready. After 3:00 in
5 the afternoon, I had to be ready.
6 Q. Were you ever late?
7 A. Always I was one of the firsts at the
8 company. It's always been that way. My whole
9 life, I've been that way.
10 Q. Were you ever late ever?
11 A. If I was getting there late, I would let
12 him know.
13 Q. You were late at certain times?
14 MR. ANDREWS: Objection.
15 A. I don't remember, but I think. I don't
16 remember.
17 Q. If you were ever late, did anything
18 happen to you?
19 A. Something? Can you repeat the question?
20 Q. Were you ever disciplined if you showed
21 up late?
22 A. If at some time? Can you repeat the
23 question again?
24 Q. Were you ever disciplined if you showed
25 up late?

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1 J. Correa
2 A. They wouldn't discipline you if you let
3 them know with anticipation. You always had to
4 let them know with an anticipation.
5 Q. You would still get the route for that
6 night?
7 MR. ANDREWS: Objection.
8 A. If I said I was going to get there late,
9 they would let me, but if I was not going to be
10 able to arrive, they would give it to someone
11 else.
12 Q. Did that ever happen?
13 A. I think maybe one time when I was sick.
14 Q. Did you ever refuse to do deliveries
15 because you were sick?
16 MR. ANDREWS: Objection.
17 A. No.
18 Either way, I didn't have medical
19 insurance, so I couldn't go to the doctor.
20 Q. Did you ever submit an expense report?
21 A. To Fresh Diet?
22 Q. Yes.
23 A. Fresh Diet did not -- they would say we
24 had to pay our gas and everything.
25 Q. You paid?

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1 J. Correa
2 MR. ANDREWS: Objection.
3 A. I always paid everything. I had nothing
4 leftover for myself.
5 Q. You weren't reimbursed for gas?
6 A. No.
7 Q. For tolls?
8 A. For the tolls, yes.
9 Q. How would you be reimbursed for tolls?
10 A. Through the E-ZPass.
11 Q. Did you pay for your own maintenance of
12 your car during the time you worked?
13 A. Yes.
14 Q. Your own repairs?
15 A. Yes.
16 Q. You were paid for the work that you did,
17 correct?
18 MR. ANDREWS: Objection.
19 A. They would pay fifty cents and a dollar
20 per stop. That wasn't really much. That
21 wasn't enough for anything.
22 Q. How were you paid?
23 A. Per miles and per stops.
24 Q. Do you remember how much you were paid
25 per mile?

[13] (Pages 46 to 49)

[Page 50]

1 J. Correa
 2 A. Fifty cents. Fifty cents.
 3 Q. Do you know how much you were paid per
 4 stop?
 5 A. A dollar.
 6 Q. How did Late Night know how much to pay
 7 you?
 8 MR. ANDREWS: Objection.
 9 A. Syed would give -- the manifest would
 10 already say how many miles I would have to
 11 drive, and Syed would present it. Syed was the
 12 one who did it. I don't know. I just know
 13 that I would get my check. Syed would do
 14 everything.
 15 Q. Was the check the same every time you
 16 got paid?
 17 A. Always varied.
 18 Q. Were you paid once a week?
 19 A. Yes.
 20 Q. What day of the week?
 21 A. Wednesdays.
 22 First, when I started at Seigel, they
 23 would give us the checks on Tuesday, but they
 24 would tell us to cash them on Wednesday, and
 25 then they started giving it to us on

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1 J. Correa
 2 Wednesdays. At Seigel, they started giving
 3 them to us.
 4 Q. The checks said Late Night on them?
 5 MR. ANDREWS: Objection.
 6 A. Yes.
 7 Q. Did you receive any other compensation
 8 from Late Night or Fresh Diet?
 9 A. No.
 10 As a matter of fact, I had many
 11 accidents, and they never gave me anything for
 12 -- to repair the car or anything.
 13 Q. You paid for your own repairs?
 14 A. Yes.
 15 Q. Did you ever give anyone else the bags
 16 to deliver for you?
 17 A. No. You can't do that.
 18 Q. How do you know you can't do that?
 19 A. Because that person -- how are you going
 20 to give the bags to someone who is not working
 21 for the company?
 22 Q. Would Syed ever know if that happened?
 23 MR. ANDREWS: Objection.
 24 Objection.
 25 A. I would imagine so.

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1 J. Correa
 2 Q. How?
 3 A. Because I had to constantly communicate
 4 with him, and he was going to realize.
 5 Q. Did he ever tell you that you could not
 6 give the bags to others to deliver?
 7 A. He was the one who did everything. He
 8 told you what to do. If he said give five bags
 9 to someone so they can do it, I would do what
 10 he told me. I couldn't do anything I wanted
 11 to. I had to do everything Syed said.
 12 Q. Did he ever tell you that you could not
 13 give the bags to others to deliver?
 14 A. Yes.
 15 Q. When?
 16 A. I don't remember.
 17 Q. Do you remember specifically what he
 18 said?
 19 A. No.
 20 MR. ANDREWS: It's 4:00 p.m.
 21 Could we take a five-minute break since
 22 there's no question pending? I need to
 23 make a quick call to my office, and I
 24 think it's a good time, a very short
 25 break.

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1 J. Correa
 2 MR. POLLACK: That's fine.
 3 (Whereupon, a recess was taken
 4 at this time.)
 5 Q. When did you stop working with
 6 Fresh Diet?
 7 A. My last day was the on 14th, March of
 8 this year.
 9 Q. March 14, 2013?
 10 A. Yes.
 11 Q. What happened?
 12 A. The last day was a Thursday. That
 13 Friday, I was waiting, as always, for Syed's
 14 phone call, and Syed told me not to come to
 15 work, and I asked him why. He told me to call
 16 Caesar. I called Caesar, and Caesar told me
 17 that they no longer needed my services.
 18 Q. Did you ask why?
 19 A. Yes. He told me you're an independent
 20 contractor, and he no longer needed my
 21 services.
 22 Q. Were you ever given a phone from
 23 Late Night?
 24 MR. ANDREWS: Objection.
 25 A. Yes.

[14] (Pages 50 to 53)

[Page 54]

1 J. Correa
 2 Q. For what reason?
 3 A. For the reason that Syed wanted each
 4 person -- like a walkie-talkie. It was a
 5 walkie-talkie. Every time you made a stop, to
 6 press the button and state the stop you'd made,
 7 but that project never worked, and the phones
 8 were given back to the company.
 9 Q. How long did that happen?
 10 A. Like maybe a week.
 11 Q. Were you ever given anything else by
 12 Fresh Diet or Late Night to perform the
 13 deliveries except for the bags --
 14 MR. ANDREWS: Objection.
 15 Q. -- and the meals?
 16 A. The magnetic decals and the card, badge.
 17 Q. What was the card used for?
 18 A. So if the police stopped or you were
 19 going enter into a residential area, you would
 20 show that you were working for Fresh Diet.
 21 I was stopped lots of times by the
 22 police to investigate what I was doing so late
 23 at night in those residential areas.
 24 Q. What did you do during the day when you
 25 were going to be performing deliveries that

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1 J. Correa
 2 night?
 3 A. What would I do during the day?
 4 Q. Yes.
 5 A. Get ready, to be ready, eat, bathe. To
 6 be ready so when Syed called me, to go over to
 7 the company.
 8 Q. Did you ever sleep?
 9 A. Once I finished the job, I would go
 10 straight to sleep.
 11 Q. Were you ever told that you couldn't
 12 work for anyone else?
 13 A. I don't remember. I think so because we
 14 always had to be available for twenty-four
 15 hours. Yes. Yes. He told us we had to be
 16 available. We had to be available always, and
 17 even if you wanted to, you couldn't do it
 18 because if you arrived, you did not know what
 19 time you had to get to the company.
 20 Q. I need to get back to the hours because
 21 if this were to go further and to go to,
 22 perhaps, a jury, you're going to have to state
 23 the hours that you worked.
 24 MR. ANDREWS: Objection.
 25 Can the counsel please ask a

[Page 56]

1 J. Correa
 2 question?
 3 Q. Can you tell me how many hours per week
 4 you worked performing deliveries for
 5 The Fresh Diet?
 6 A. Can I calculate with my phone?
 7 Q. Yes. Please just tell us what you're
 8 calculating so she can take it down.
 9 A. I'm going to calculate the hours I would
 10 work daily to give you the weekly result.
 11 Q. What numbers are you punching in?
 12 MR. ANDREWS: Just describe how
 13 you're doing this verbally so she can
 14 take it down.
 15 A. I'm looking for the calculator to
 16 calculate the daily hours.
 17 Around seventy-two hours. I calculated
 18 to the minimum of twelve, but many times, it
 19 was more than that.
 20 Q. Why did you use twelve?
 21 A. Because it's more than that but to give
 22 an average.
 23 Q. What is the earliest time in a day that
 24 you would leave with bags in your car to
 25 deliver meals?

[Page 57]

1 J. Correa
 2 A. I would get to the company about 3:00.
 3 I would leave to make deliveries around 5:00 or
 4 6:00.
 5 Q. Meals were ready at 5:00 or 6:00?
 6 MR. ANDREWS: Objection.
 7 A. No.
 8 You asked what was one of the earliest
 9 days, so I'm giving you the answer, one of the
 10 earliest days.
 11 Q. What is the latest?
 12 A. I remember one day that we were called
 13 to help the people in the kitchen because they
 14 burned some food and everything had to be
 15 cooked all over again, and we left at like
 16 11:00 at night from the company.
 17 Q. When were meals ready to be delivered?
 18 MR. ANDREWS: Objection.
 19 A. It always varied. With Fresh Diet,
 20 everything varied.
 21 Q. Were they ever ready at 5:00 p.m.?
 22 A. Yes.
 23 Q. Did you ever leave to deliver meals at
 24 5:00 p.m.?
 25 A. Yes.

[15] (Pages 54 to 57)

[Page 58]

1 J. Correa
 2 Q. 6:00 p.m.?
 3 A. Yes.
 4 I am saying it varied a lot.
 5 Q. It would be later?
 6 They'd be ready later than 6:00 p.m.
 7 sometimes?
 8 MR. ANDREWS: Objection.
 9 Q. Is that a fair statement?
 10 MR. ANDREWS: Objection.
 11 A. No.
 12 The question you said was the earliest
 13 day. At Fresh Diet, it always varied. You
 14 can't give an exact number for Fresh Diet
 15 because everything varied. You can't ask for
 16 that to be done.
 17 Q. To the best of your knowledge, were
 18 meals ready to be delivered by 7:00 p.m. for
 19 locations outside of New York City?
 20 MR. ANDREWS: Objection.
 21 A. At 7:00? No. Many times -- the
 22 majority of the time, it was not ready by 7:00.
 23 Q. The majority of the time, when was it
 24 ready by?
 25 A. It's that it would vary. I can't give a

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1 J. Correa
 2 number. It varied a lot, but we did have to
 3 arrive to help.
 4 Q. You said the majority of the time it was
 5 not ready by 7:00, correct?
 6 A. No, I did not say that. I said that it
 7 varied a lot.
 8 MR. POLLACK: The record will
 9 say what it says.
 10 Q. You're aware that you were considered an
 11 independent contractor?
 12 MR. ANDREWS: Objection.
 13 A. I did not know that they were going to
 14 take me down, take me as an independent
 15 contractor.
 16 Q. You were paid per stop and per mile,
 17 correct?
 18 A. Yes.
 19 Q. The entire time you did work with the
 20 Fresh Diet?
 21 A. Yes.
 22 Q. Were taxes ever withheld from your
 23 compensation?
 24 A. No.
 25 (Whereupon, 2011 1099 form was

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1 J. Correa
 2 marked as Defendant's Exhibit 19, for
 3 identification, as of this date.)
 4 (Whereupon, 2012 1099 form was
 5 marked as Defendant's Exhibit 20, for
 6 identification, as of this date.)
 7 Q. I'm going to show you what's been marked
 8 for identification as Defendant's Exhibit 19
 9 and ask if you've ever seen that document
 10 before today (handing).
 11 A. Yes.
 12 Q. How did you receive that document?
 13 A. The -- Syed gave it to us.
 14 Q. Do you know what that document is?
 15 A. The document is for the taxes.
 16 Q. Is that your name on the document?
 17 A. Yes.
 18 Q. Is that your Social Security number?
 19 A. Yes.
 20 Q. Do you see on there where it says
 21 "Non-Employee Compensation"?
 22 A. Yes.
 23 Q. Do you see underneath it says "52,000"?
 24 A. Yes.
 25 Q. Did you receive \$52,000 from Late Night

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1 J. Correa
 2 in 2011?
 3 A. Yes.
 4 Q. Now I'm going to show you what's been
 5 marked for identification as Defendant's
 6 Exhibit 20 and ask the same question, if you've
 7 seen that document before today (handing).
 8 A. Yes.
 9 Q. That's your name on the document?
 10 A. Yes.
 11 Q. And your Social Security number?
 12 A. Yes.
 13 Q. Did Syed give you this document?
 14 A. Yes.
 15 Q. Do you see that it says "\$48,785.35" on
 16 the non-employee compensation?
 17 MR. ANDREWS: Objection.
 18 A. Yes.
 19 Q. Did you receive \$48,785.35 in 2012 from
 20 Late Night?
 21 A. Yes.
 22 MR. ANDREWS: Objection.
 23 Q. Did you file tax returns with the
 24 government?
 25 A. I went to declare them at H&R Block, and

[16] (Pages 58 to 61)

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1 J. Correa
 2 the people told me they wouldn't dare do it
 3 because I was going to have problems because
 4 the company says -- it says here that I'm a
 5 contractor, I'm not an employee.
 6 Q. Which H&R Block did you go to?
 7 A. To a representative of H&R Block that's
 8 nearby to us.
 9 Q. To your home address?
 10 A. In the area, yes.
 11 Q. Do you know the address of that
 12 H&R Block?
 13 A. (Witness shakes head.)
 14 MR. ANDREWS: Say no.
 15 A. No.
 16 Q. Do you know the name of the person you
 17 spoke with?
 18 A. No.
 19 Q. What did you do after you left H&R Block
 20 with this document?
 21 A. I don't remember.
 22 Q. Did you file tax returns in 2011?
 23 A. Yes.
 24 Q. Did you file tax returns in 2012?
 25 A. No.

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1 J. Correa
 2 MR. POLLACK: I'm going to
 3 request the production of the tax
 4 returns filed in 2011.
 5 Q. In 2011, did you file quarterly or at
 6 the end of the year?
 7 A. At the end of the year.
 8 Q. Did you file jointly or on your own?
 9 A. I think I did it jointly. I don't
 10 remember too well.
 11 Q. Do you remember if you declared \$52,000
 12 as income on a tax return?
 13 MR. ANDREWS: Objection.
 14 A. I don't remember.
 15 Q. Do you remember if you deducted any
 16 expenses on your tax return?
 17 A. I don't remember.
 18 Q. Do you know if you have access to those
 19 tax returns?
 20 A. No.
 21 Q. What did you do with them?
 22 A. With the 2011 taxes?
 23 Q. Yes.
 24 A. I went to a tax representative with my
 25 wife, but I don't remember anything else.

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1 J. Correa
 2 Q. Did you ever receive any benefits from
 3 Late Night when you were performing work for
 4 it?
 5 MR. ANDREWS: Objection.
 6 A. No.
 7 Q. Never received health insurance?
 8 A. No.
 9 Q. Taxes were never deducted from your
 10 compensation?
 11 THE INTERPRETER: I'm sorry.
 12 Can you read that back?
 13 (Whereupon, the record was read
 14 by the reporter.)
 15 A. No.
 16 Q. Have you provided any documents to your
 17 attorney regarding your claims in this action?
 18 A. I don't remember.
 19 Q. Did you ever keep a record of the
 20 deliveries you made for Late Night?
 21 A. Syed required us to return the paper.
 22 Q. You never kept a record?
 23 A. No.
 24 Q. Did you ever keep a record of the hours
 25 you worked for Late Night?

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1 J. Correa
 2 MR. ANDREWS: Objection.
 3 A. Syed had everything written down.
 4 Q. Did you ever keep a record of the hours
 5 you worked for Late Night?
 6 A. Syed has it in his computer.
 7 Q. Did you ever keep a record?
 8 A. No.
 9 Q. Do you know the name Judah Schloss?
 10 MR. ANDREWS: I think it's
 11 sometimes Judah.
 12 A. Yes.
 13 Q. How do you know Mr. Schloss?
 14 A. I always maintain myself. I try not to
 15 meet people in the company. I just interacted
 16 with Syed, and I did my job.
 17 Q. Do you know the name Zaimi Duchman?
 18 A. Duchman?
 19 Q. Sure.
 20 A. Yes, I've heard the name.
 21 Q. Do you know what his relationship is to
 22 The Fresh Diet?
 23 A. Attorney. No. I don't remember.
 24 MR. POLLACK: Can we just take a
 25 five-minute break? I think I may be

[17] (Pages 62 to 65)

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1 J. Correa
2 done.
3 MR. ANDREWS: Okay.
4 (Whereupon, a recess was taken
5 at this time.)
6 MR. POLLACK: I have no further
7 questions.
8 MR. ANDREWS: I don't have any
9 further questions.
10 MR. POLLACK: I'm just going to
11 reserve the right to keep it open
12 pending production of the documents
13 requested.
14 Q. Also, to the extent that you have any other
15 documents that may be relevant to this action, I'm
16 going ask that you produce those as well.
17 A. Okay.
18 MR. ANDREWS: That's fine.
19 (Time Noted: 4:39 p.m.)
20
21 _____
22 JUAN CORREA
23 Subscribed and sworn to before me
24 this ____ day of _____, 2013.
25 _____
Notary Public

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3	Juan Correa	Yale Pollack	4
4			
5			
6			
7	E X H I B I T S		
8	DEFENDANT'S	DESCRIPTION	PAGE
9	13	Complaint	8
10	14	EBT Notice	8
11	15	Collective Notice	12
12	16	Consent by Mr. Correa	12
13	17	Mr. Correa's driver	15
14		identification card	
15	18	Late Night Express Courier	17
16		Services documents	
17	19	2011 1099 form	60
18	20	2012 1099 form	60
19	REQUESTS FOR PRODUCTION		
20	DESCRIPTION	PAGE	
21	Driver's license, residency card,	14	
22	and Social Security card		
23	Tax returns filed in 2011	63	
24	Any relevant documents to this action	66	
25			

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1
2 C E R T I F I C A T E
3
4 I, MELISSA KAHANE, hereby certify that
5 the Examination Before Trial of JUAN CORREA was
6 held before me on the 20th day of September,
7 2013; that said witness was duly sworn before
8 the commencement of his testimony; that the
9 testimony was taken stenographically by myself
10 and then transcribed by myself; that the party
11 was represented by counsel as appears herein;
12 That the within transcript is a true
13 record of the Examination Before Trial of said
14 witness;
15 That I am not connected by blood or
16 marriage with any of the parties; that I am not
17 interested directly or indirectly in the
18 outcome of this matter; that I am not in the
19 employ of any of the counsel.
20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 20th day of September, 2013.
22
23
24 _____
25 MELISSA KAHANE

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